

431 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

COC-1277-2014 (O&M)
Date of decision: 15.11.2019

ROSHAN LAL

.. PETITIONER

VERSUS

SH. ATUL KUMAR AND ANOTHER

.. RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. B.K. Bagri, Advocate
for the petitioner.

Mr. S.S.Kharab, Advocate
for the respondents.

AVNEESH JHINGAN, J. (Oral)

The petitioner filed a writ petition against Award dated 21.01.2010 passed by the learned Labour Court, denying the reinstatement with continuity of service but granting Rs. 50,000/- as lump-sum compensation. The petition was allowed on 09.12.2013 and the Award was set aside. Respondent was directed to reinstate the petitioner with continuity of service with all other consequential service benefits, the wages were restricted to 50%. It was further ordered that in case, the payment is not made within three months, the petitioner shall be entitled to 9% interest from the date of termination till the date of reinstatement.

There is no dispute between the parties that the 50% back wages were paid, albeit beyond three months.

The disputes surviving in the present contempt petition are that firstly, no interest has been paid and secondly that the petitioner has wrongly been superannuated by changing the date of birth and thereby denying the reinstatement.

This Court has been apprised of the fact that the execution application is

pending in which dispute with regard to the date of birth of the petitioner and
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resultantly the date of superannuation is being adjudicated. Executing Court has directed the respondent to hold the inquiry with regard to the date of birth of the appellant.

Since 50% back wages have already been paid and there is controversy with regard to the date of birth, in such circumstances, no case is made out of wilful disobedience. Moreover, it would not be appropriate to give parallel remedy to the petitioner for deciding the said controversy.

It would be desirable that the issue of interest is also dealt with in execution. Moreso, when there was litigation pending after judgment of this Court and said aspect needs to be considered to decide the issue of awarding interest.

It is settled law that it is not that for every violation, the interference has to be made in the contempt jurisdiction, especially when there is an arguable point. Reliance in this regard is placed upon the decision of the Hon'ble Supreme Court in ***Debabrata Bandopadhyay Versus State of W.B., AIR 1969 SC 189***, wherein it was held as under:-

“9. A question whether there is contempt of court or not is a serious one. The court is both the accuser as well as the judge of the accusation. It behoves the court to act with as great circumspection as possible making all allowances for errors of judgment and difficulties arising from inveterate practices in courts and tribunals. It is only when a clear case of contumacious conduct not explainable otherwise, arises that the contemnor must be punished. ... Punishment under the law of contempt is called for when the lapse is deliberate and in disregard of one's duty and in defiance of authority. To take action in an unclear case is to make the law of contempt do duty for other measures and is not to be encouraged.”
(emphasis supplied)

In view of the above, the contempt petition is disposed of. Needless to say that the petitioner would be at liberty to avail remedies in accordance with law for

redressal of the surviving grievances including pressing the pending execution.

15th November, 2019
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*